

STATE OF INDIANA  
MITCHELL E. DANIELS, JR., GOVERNOR

STATE MANAGEMENT PLAN

FOR

SECTION 5317

FEDERAL TRANSIT ADMINISTRATION (FTA)  
NEW FREEDOM PROGRAM

September 2007

Indiana Department of Transportation  
Office of Transit  
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## A. PROGRAM GOALS AND BACKGROUND

### Introduction

The New Freedom Program is a new program authorized in the Safe, Accountable, Flexible, Efficient Transportation Act, a Legacy for Users (SAFETEA-LU) (Pub. L. 109-059), enacted on August 10, 2005. New Freedom grew out of the New Freedom Initiative introduced by the Administration under Executive Order 13217, “Community-Based Alternatives for Individuals with Disabilities. This Executive Order and subsequent program recognize that individuals who are transportation-disadvantaged face different challenges in accessing services depending on whether they live in urban, rural, or suburban areas. The geographic distribution of the transportation disadvantaged also create challenges for programs hoping to deliver transportation for their passengers. New Freedom assists with meeting these challenges by providing funds for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (ADA) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services. SAFETEA-LU requires that projects funded from New Freedom programs be derived from a locally developed, coordinated public transit-human service transportation plan (coordinated plan) and be competitively selected.

Indiana annually receives federal funds for New Freedom to distribute on a federal and local matching basis. The Governor of Indiana has designated the Indiana Department of Transportation (INDOT) as the agency responsible for administering Indiana’s New Freedom allocation.

The Indiana Department of Transportation, Office of Transit solicits New Freedom applications, provides technical assistance to prospective applicants, selects projects, executes grant awards, and monitors equipment purchases and vehicle operation.

This State Management Plan meets the requirements of FTA as set forth in the New Freedom Circular FTA C 9045.1 issued May 1, 2007, and describes the process by which INDOT implements the New Freedom Program within the State of Indiana. This Plan also contains the criteria by which applicants can apply and receive New Freedom funding. To participate in the New Freedom program, an applicant must submit an application that meets the criteria listed in this plan and the instructions and forms contained in the INDOT Application for New Freedom Funding application package.

### Program Goals

The New Freedom program is a formula grant program intended to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation in society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. **The New Freedom Program seeks to remove this barrier by expanding transportation mobility options for individuals with disabilities beyond the requirements of the Americans with**

**Disabilities Act of 1990.** Funds are available for all areas—urbanized, small urban, and rural; projects must be derived from a locally developed coordinated public transit-human services transportation plan.

### Definitions

The following definitions are provided as they relate to INDOT's implementation of the New Freedom Program:

Accessible Taxi: An accessible taxi is a vehicle that is used by a private provider of on-demand transportation service to the public that is regulated and licensed for such use by the municipality, county or other government entity. An accessible taxi is one which has the capacity to accommodate a passenger who uses a "common wheelchair" as defined under 49 CFR 37.3, at a minimum, while remaining in his/her personal mobility device inside the vehicle, and meets the same requirements for lifts, ramps, and securement systems specified in 49 CFR part 38, subpart B.

Americans with Disabilities Act (ADA): Public Law 336 of the 101<sup>st</sup> Congress, enacted July 26, 1990. The ADA prohibits discrimination and ensures opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.

Competitive Selection Process: A process to choose which projects will be funded based on standard evaluation criteria applied to each project. Projects are not guaranteed funding year to year. As the Designated Recipient of FTA funds, the process is conducted by INDOT for small urban and nonurbanized areas in the State of Indiana. The projects selected must be derived from a Coordinated Public Transit-Human Services Transportation Plan.

Coordinated Public Transit-Human Services Transportation Plan: A locally developed plan as required by SAFETEA-LU that identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes, provides strategies for meeting those local needs, and prioritizes transportation services for funding and implementation. The plan must include an area no smaller than a county. All New Freedom projects must be derived from these locally developed plans.

Demand Responsive Service: Service which operates in response to calls from passengers to the transit operator. Vehicles are dispatched to pick up passengers and transport them to their destinations. The vehicles do not operate over a fixed route or on a fixed schedule. Routes change every day depending on the demand.

Designated Recipient: In nonurbanized areas and urbanized areas with a population of less than 200,000, the recipient is the State agency designated by the Governor to receive and apportion amounts under New Freedom. In the State of Indiana, the INDOT Office of Transit is the designated recipient.

Eligible Subrecipients: For purposes of the INDOT New Freedom Program, eligible subrecipients must be an existing Section 5307 designated recipient or Section 5311 grantee. For nonurbanized areas with no Section 5311 grantee, INDOT will consider new applicants.

Fixed Route Service: Designated public transportation service in which a vehicle is operated along a prescribed route according to a fixed schedule.

Grantee: An eligible subrecipient, which submitted, and received approval of, a New Freedom application to INDOT.

Human Service Transportation: Transportation services provided by or on behalf of a human service agency to provide access to agency services and/or to meet the basic, day-to-day mobility needs of transportation-disadvantaged populations, especially individuals with disabilities, older adults, and people with low incomes.

Individual With a Disability: The term 'individual with a disability' means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use effectively, without special facilities, planning, or design, public transportation service or a public transportation facility. 49 U.S.C. 5302(a)(5).

Mobility Management: Eligible capital expenses consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation-service providers carried out by a grantee through an agreement entered into with a person, including a government entity, under Chapter 53 (other than Section 5309). Mobility management does not include operating public transportation services.

New Applicants: INDOT will accept applications for New Freedom funding from new applicants in nonurbanized areas. They must be units of local government authorized under state law to provide and carry out a local public transportation project in areas with no existing Section 5311 grantees. Units of local government include counties, cities, or towns; a Public Transportation Corporation (PTC) as established under Indiana Code 36-9-4-11, Regional Transportation Authorities (RTA) as established under I.C. 36-9-3-2, Regional Planning Commissions as established under I.C. 36-7-7.

Non-profit Organization: A corporation or association determined by the Secretary of the Treasury to be an organization described by 26 U.S.C. 501(c) that is exempt from taxation under 26 U.S.C. 501(a) or one that has been determined under State law to be non-profit and for which the designated State agency has received documentation certifying the status of the non-profit organization.

Nonurbanized Areas: A rural area with a population density of less than 500 people per square mile or small urban area with a population of less than 50,000 people.

Paratransit: Comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed route transportation systems.

Pass-Thru Recipient: An entity participating in a New Freedom project that would receive New Freedom funds via pass thru from an eligible subrecipient, which would be responsible for ensuring that the pass-thru recipients comply with all State and Federal requirements required under the New Freedom Program.

Program of Projects: A list of projects to be funded in a grant application submitted to FTA by a designated recipient. The program of projects lists the subrecipients and indicates whether they are private non-profit agencies, public bodies, or private providers of transportation service, and designates the areas served (including rural counties). In addition, the program of projects includes a brief description of the projects, total project cost, and Federal share for each project, and the amount of funds used for program administration from the 10% allowed.

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU): The federal transportation authorization bill that was signed into law in August 2005.

Small Urbanized Areas: An area with a population between 50,000 and 200,000.

State Transportation Improvement Program (STIP): A statewide document that includes all projects to be implemented within a four year period.

Transportation Improvement Program (TIP): A local approved short range transportation plan that reflects the program of publicly funded transportation improvements for the Metropolitan Planning Organization region.

Urbanized Area (UZA): An area defined by the U.S. Census Bureau with a population of 50,000 or greater and a population density of at least 1,000 people per square mile in a central city and 500 per square mile in the surrounding area..

## **B. ROLES AND RESPONSIBILITIES**

### *Federal Transit Administration (FTA)*

The FTA is the federal oversight agency. With headquarters in Washington, D.C., FTA is responsible for: providing overall policy and program guidance for the New Freedom program; allocating funds annually to the States; developing and implementing financial management procedures; initiating and managing program support activities; and conducting national program review and evaluation.

The FTA Region V Office in Chicago is responsible for the day-to-day administration of the program. Regional office activities include: reviewing and approving state grant applications; obligating funds; working with states to implement the annual program; receiving state certifications and revisions to the program of projects; review and approval of State Management Plans; oversight of state management responsibilities; and overall grant management.

#### Indiana Department of Transportation (INDOT)

INDOT has been designated by the Governor as the agency responsible for the administration of U.S. DOT Federal Transit Administration (FTA) programs, including the New Freedom Program, within the State of Indiana.

Within the Department, that responsibility falls upon the Office of Transit. INDOT's responsibilities include a fair and equitable distribution of funds, adhering to federal and state program guidelines, notifying eligible applicants about the availability of the program, developing program criteria, soliciting applications, and monitoring and improving coordination of public transportation services at the local and state levels. INDOT will, for non-urbanized areas, certify eligibility of applicants, review applications, select applications for approval, apply for and receive funding, execute contracts, monitor grants, ensure that audits are performed on all New Freedom grants, and close out projects. INDOT will also provide appropriate technical assistance to all subrecipients.

#### Metropolitan Planning Organizations (MPOs)

For urbanized areas of 50,000 to 200,000 population, INDOT will provide program guidance and selection criteria to each respective Metropolitan Planning Organization (MPO), which will conduct the application and selection process and submit the selected applications to INDOT for review and concurrence. INDOT will then make the necessary transfer of Section 5307 funds to the designated recipients for the respective urbanized areas. Each designated recipient will be responsible for executing contracts, monitoring grants, project audits and close-out. INDOT will provide technical assistance to these urbanized areas as appropriate.

### **C. COORDINATION**

SAFETEA-LU, the Federal authorizing legislation for highway and transit funding, requires locally developed Coordinated Plans as a condition for funding under three FTA Programs: Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute (JARC) (Section 5316), and New Freedom (Section 5317) grant programs. The New Freedom program specifically requires coordination of federally assisted programs and services in order to make the most efficient use of Federal resources.

By identifying both the transportation needs and issues of a particular area and the transportation services available to meet these needs, locally developed coordinated plans can help reduce or



eliminate many of the problems and issues previously mentioned, such as duplication of services and underutilization of resources, and actually help extend or expand service to meet unmet transportation needs.

### *Coordinated Public Transit-Human Services Transportation Plans*

All New Freedom projects are selected for funding from a locally developed coordination plan, developed as a result of participation by a wide range of stakeholders, including but not limited to, representatives of public, private, and non-profit and human services transportation providers, potential New Freedom applicants, potential New Freedom customers, advocacy organizations, medical professionals, local businesses, the general public. These local plans, county and/or regional, representing nonurbanized and urbanized areas, have been developed and adopted locally and comprise the Indiana statewide coordinated plan.

To be considered, each local coordination plan must contain:

- a. An assessment of available services that identifies current transportation providers (public, private, and non-profit);
- b. An assessment of transportation needs for individuals with disabilities, older adults, and people with low incomes.
- c. Strategies, activities and/or projects to address the identified gaps between current services and needs, as well as opportunities to improve efficiencies in service delivery; and
- d. Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified.

The coordinated plan serves as the foundation for the program of projects and will be integrated into the metropolitan and statewide transportation planning processes and documents to demonstrate local policy support and Federal fund eligibility. The Office of Transit provides assistance through its technical assistance contract for the development of these plans.

### *Local Coordination Efforts*

Prior to the coordination plan requirement, coordination occurred primarily through local Transportation Advisory Committees (TACs), primarily as a requirement for the FTA Section 5310 program. INDOT requires all Section 5310 applicants to participate in any existing TAC or to establish a TAC, and strongly recommends Section 5311 applicants to establish a TAC. The local TAC serves as an advisory and information resource to the applicant for activities including, but not limited to assisting the applicant in assessing and identifying transit needs and resources within their service area; and establishing goals and objectives for coordinated transportation service delivery.

Since this process is in place for the Section 5310 and 5311 Programs, it will also be the clearinghouse for developing the local Coordinated Plans and to ensure on-going coordination among all FTA programs, including JARC and New Freedom. Where necessary, representation on the TACs will be expanded to ensure the widest participation by affected parties has been accomplished, including representation of public, private, and non-profit and human services transportation providers and the general public, as well as other transportation providers, advocacy groups, human service agencies and passengers.

#### Coordination at the State Level

The Office of Transit will, as part of the process to develop the statewide Coordinated Plan, establish a subcommittee to facilitate cooperation and coordination between other state administered transportation programs and INDOT's transit programs. This subcommittee will provide input into the coordinated plan process as well as provide a forum for discussing strategies and policies that may assist INDOT in achieving its New Freedom program goals.

In addition to Office of Transit representatives, subcommittee members will represent the appropriate divisions of the Indiana Family & Social Services Administration, including, but not limited to the Divisions of Family Resources, Aging, and Disability and Rehabilitation Services.

### **D. ELIGIBLE SUBRECIPIENTS**

#### Direct Recipients

For purposes of the INDOT's New Freedom program, direct eligible subrecipients which will be entering into a contract with INDOT for a New Freedoms project must be an existing Section 5311 grantee or Section 5307 designated recipient in good standing having met all requirements for those programs as stipulated in the INDOT Section 5311 State Management Plan and FTA Circulars 9040.1E and 9030. Section 5307 designated recipients must have previously received their designated status. For the Section 5311 Program, eligible subrecipients must be a unit of government authorized under state law to provide and carry out a local public transportation project. Eligible Applicants include counties, cities, or towns; Public Transportation Corporations (PTC) as established under Indiana Code 36-9-4-11; Regional Transportation Authorities (RTA) as established under I.C. 36-9-3-2; Regional Planning Commissions as established under I.C. 36-7-7, or non-profit organizations with formal resolution of the local governing board of an eligible public recipient. This does not prohibit, however, projects where an eligible subrecipient would pass through the funding to another entity (see Pass-Thru Recipients paragraph below). Eligible subrecipients must document their participation in a locally developed coordination plan and how their proposed New Freedom project will serve the employment transportation needs of individuals with disabilities.

In areas where there are no Section 5311 grantees, INDOT will accept New Applicants, eligible subrecipients that are units of local government authorized under state law to provide and carry out a local public transportation project. Eligible Applicants include counties, cities, or towns; Public Transportation Corporations (PTC) as established under Indiana Code 36-9-4-11; Regional Transportation Authorities (RTA) as established under I.C. 36-9-3-2; Regional Planning Commissions as established under I.C. 36-7-7, or non-profit organizations with formal resolution of the local governing board of an eligible public recipient. In these cases, INDOT will work with these subrecipients to ensure that all applicable State and Federal requirements can be met.

#### *Pass-Through Recipients*

An eligible subrecipient may choose to pass all or a portion of its New Freedom funds through to another agency to carry out the purposes of the New Freedom project and its agreement with the State. This arrangement is required for private nonprofit organizations that have obtained a formal resolution of a local governing board to apply for New Freedom funding. In these situations, a written agreement must be executed between both local parties to assure the State and FTA that the recipient will be able to comply with its obligation to satisfy the requirements of the New Freedom grant agreement. Pass thru agreements must be clearly described in the New Freedom application and the State must be notified of any changes to the agreements over the life of the project. A pass through agreement does not relieve the grantee of its responsibilities to carry out the terms and conditions of the grant agreement.

### **E. LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS**

New Freedom funds may be used to finance capital and operating expenses. The Federal share of eligible capital costs may not exceed 80% of the net cost of the activity. The Federal share of the eligible operating costs may not exceed 50% of the net operating costs of the activity. The local share of eligible capital costs shall be no less than 20% of the net cost of the activity, and the local share for eligible operating costs shall be no less than 50% of the net operating costs, except for the incremental cost of equipment required by the Clear Air Amendments Act (CAAA) or Americans with Disabilities Act (ADA), which may be funded at the rate of 90% of the incremental cost only. Any subrecipient requesting this higher Federal rate must contact the INDOT Office of Transit, which will, in turn, contact FTA for further guidance.

All of the local share must be provided from sources other than Federal DOT funds. Some examples of sources of local match which may be used for any or all of the local share include State or local appropriations; other non DOT Federal funds; dedicated tax revenues; private donations; revenue from human service contracts; toll revenue credits; and net income generated from advertising and concessions. Non-cash share such as donations, volunteered services or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, and represents a cost which would otherwise be eligible under the program.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for New Freedom operating assistance. In either case, the cost of providing the contract service is included in the total project cost.

Local match may be derived from other Federal funds derived from Federal programs that are eligible to be expended for transportation, other than from the Department of Transportation programs. Examples include Temporary Assistance for Needy Families (TANF), Medicaid, Employment training programs, Rehabilitation Services, and Administration on Aging. To be eligible for local match for FTA funds, the other Federal funds must be used for activities included in the total net project costs of the FTA grant. Expenditure of other Federal funds for transportation outside of the scope of the project cannot be applied as a credit for local match in the FTA grant.

## **F. APPLICATION PROCESS, FINANCIAL ASSISTANCE, ELIGIBLE ACTIVITIES AND PROJECTS, SELECTION CRITERIA, AND FUNDS DISTRIBUTION**

The New Freedom application process will be conducted by INDOT for nonurbanized areas, and by the requisite Metropolitan Planning Organizations, for urbanized areas under 200,000 in population. Designated recipients in urbanized areas of greater than 200,000 in population will apply directly to the FTA. (See FTA Circular 9045.1 Chapter 3, Section 4) INDOT will develop and distribute all application and selection materials to the MPOs.

### *Types of Financial Assistance*

New Freedom funds may be used for capital and/or operating projects that support new public transportation services beyond those required by the ADA and new public transportation alternatives beyond those required by the ADA.

### *Eligible New Freedom Activities*

New Freedom program funds must be used in projects designed to assist individuals with disabilities with accessing transportation services, including transportation to and from jobs and employment support services. For the purpose of the New Freedom Program, “new” service is any service or activity that was not operational before August 10, 2005 and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Plan (TIP) or the State Transportation Improvement Plan (STIP). All projects must be derived from a local Coordinated Plan. Projects not included in a coordinated plan will not be eligible.

1. Enhancing paratransit beyond minimum requirements of the ADA. ADA complementary paratransit services can be eligible under New Freedom in several ways as long as the services provided meet the definition of “new.”

2. Feeder services. New “feeder” service (transit service that provides access) to commuter rail, commuter bus, intercity rail, and intercity bus stations.
3. Making accessibility improvements to transit and intermodal stations not designated as key stations.
4. Travel training. New training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities.
5. See FTA Circular 9045.1 for the New Freedom Program Guidance and Application Instructions, May 1, 2007 for additional examples of “new” service.
6. New Public Transportation Alternatives beyond the ADA. The following activities are examples and should not be considered an exhaustive list of projects that are eligible as new public transportation alternatives beyond the ADA under the New Freedom Program:
  1. Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs.
  2. Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers.
  3. Supporting new volunteer driver and aide programs.
  4. Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation.
  5. See FTA Circular 9045.1 for the New Freedom Program Guidance and Application Instructions, May 1, 2007 for additional examples of “new” service.

### Project Eligibility

Project eligibility will be determined as follows:

Applicant must be:

1. An existing Section 5311 grantee or 5307 designated recipient or grantee in areas with no existing Section 5311 grantees.
  - i. Units of local government authorized under state law to provide and carry out a local public transportation project in areas. Units of local government include counties, cities, or towns; a Public Transportation Corporation (PTC) as established under Indiana Code 36-9-4-11, Regional Transportation Authorities (RTA) as established under I.C. 36-9-3-2, Regional Planning Commissions as established under I.C. 36-7-7; or
  - ii. Non-profit organizations with formal resolution of the local governing board of an eligible public recipient.

2. The proposed project must have been derived from a locally developed coordinated plan for the respective small urbanized or nonurbanized area, which is on file with INDOT, or is included with the New Freedom application.
3. The proposed project must support the development and maintenance of transportation services designed to transport individuals with disabilities to and from jobs and activities related to their employment.
4. The applicant must ensure that adequate funds are available to match New Freedom funds and to provide for continuing service.
5. The Federal share of eligible capital costs may not exceed 80% of the net capital costs of the project.
6. The Federal share of the eligible operating costs may not exceed 50% of the net operating costs of the activity.
7. All of the local share must be provided from sources other than U.S. Department of Transportation funds.
8. Non-cash share such as donations, volunteer services, and in-kind contributions is eligible to be counted toward the local match. The value of any non-cash share shall be documented and supported, represent a cost which would otherwise be eligible under the program, and be included in the net project costs in the project budget.
9. Applicant must demonstrate a commitment to maintain the project over its life cycle.
10. Applicant must have no known and documented issues with past performance concerning liability, negligence or safety.

#### Applications/Requests for Funding

New Freedom funds are available to eligible applicants on a calendar year basis. New Freedom applications will be available in September. Potential applicants will be sent a grant application package containing instructions for submitting a completed grant application (see Exhibit 1). Detailed instructions are included in the application package, however, technical assistance is provided to all applicants, as needed, in the preparation of the applications. The deadline for submitting applications will be approximately the last week in October. Applicants having difficulty in completing the application may request assistance from INDOT before the August deadline. Projects are to begin the following January 1.

In general, the grant application will include the following items:

1. Project description and budget: The applicant must describe existing transportation services, service area, number of passengers served, existing vehicle inventory, type of service provided, capital needs, proposed operating and capital budgets, procurement system, and system operation and performance.
2. INDOT recommends that applicants begin small when establishing new or expanded transit service. Experience has shown that service, which is heavily utilized, can successfully expand into a larger operation.

3. Coordination Plans: All projects must have been derived from a local Coordinated Plan. Applicants will be asked to indicate the name of the agency responsible for developing the plan, the date the plan was adopted, provide a description of the applicant's participation in the plan, and the priority or recommendation documented in the plan that this project addresses.
4. Public Involvement: Public involvement is essential to providing a service that addresses community needs. Efforts to involve the public should be made. INDOT strongly encourages applicants to establish a local Transportation Advisory Committee (TAC) or board. The local TAC is expected to encourage private sector participation and to afford an opportunity for input in plan developments. For capital grants public hearings are required.
5. Grant justification: The applicant must provide evidence of how the funds requested will be used for capital and/or operating projects that support new public transportation services beyond those required by the ADA and new public transportation alternatives beyond those required by the ADA.
6. Governing body authorization: The appropriate legislative body must pass a resolution authorizing the applicant to pursue New Freedom funding.

Once approved, Section 5311 transit systems located within metropolitan planning boundaries must submit their transit projects to the applicable Metropolitan Planning Organization (MPO) for inclusion in the current Transportation Improvement Program (TIP). Guidance is provided in 23 CFR Part 450 and 49 CFR Part 613.

In addition, applicants (and their third party contractors) must annually certify compliance with the various federal requirements, described in detail later in this plan, including, but not limited to, civil rights, bus testing and Buy America Provisions, Restrictions on Lobbying, Disadvantaged Business Enterprise (DBE), labor protection laws, regulations for charter and exclusive school service provision, and environmental protection. A complete listing of assurances and certifications that will be required is included in Exhibit 2 to this document.

INDOT continually monitors compliance through the application process, including the self-certification process, the auditing process and periodic on-site reviews.

#### Competitive Selection Criteria

Applicants must have demonstrated a) their participation in a locally developed coordination plan, and b) that the project was derived from the plan, before the application will be evaluated. Applications are then reviewed with established criteria, including compliance with the locally developed coordination plan, demonstrated financial capacity, adherence with program goals, and administrative and managerial capability. One hundred points are possible; an application must score a minimum of 50 in order to be considered for funding.

Office of Transit staff (one transit planner, two program managers, two project managers) will review, score, and rank the New Freedom applications with the selection criteria and review forms developed for the New Freedom Program. Projects will be selected beginning with the highest score and continuing with all applications scoring 50 points or better, until all available New Freedom funds have been awarded. INDOT reserves the right to partially fund applications. See Exhibit 3 for INDOT's New Freedom Program Selection Criteria.

*Distribution of Funds/Project Awards*

Funds will be awarded to applications achieving a score of 50 or higher, beginning with the highest score until all funds have been awarded. As part of the review and selection process, careful consideration will be given to the New Freedom program goals to ensure that low-income individuals are the major focus of the proposed new or expanded services.



## **G. ANNUAL PROGRAM OF PROJECTS DEVELOPMENT AND APPROVAL PROCESS**

### **Program of Projects**

INDOT develops an annual calendar for accepting New Freedom applications and for developing a Program of Projects that corresponds with the Federal funding cycle. Once the competitive selection process is completed, INDOT staff will compile an approved list of applicants, indicating whether they are public bodies, public transit operators, private non profit organizations, etc.. Each planning, capital, and operating request is listed as a separate line item and the funding amounts are identified. The POP also contains a brief description of the projects, total project costs and Federal share for each project, and the amount of funds required for planning and program administration. The total Federal funding level for the program of projects cannot exceed the total amount of New Freedom funds available.

POP projects are organized in two categories: A, projects certified by the State to have met all Federal statutory and administrative requirements for project approval applicable to both the project activities and subrecipient that will carry out those activities; B, projects that the State anticipates approving during the current year, but which have not met all of the Federal statutory or administrative requirements or are proposed to be implemented by a subrecipient that has not yet met all applicable Federal requirements. Once all requirements have been satisfied, the state will request that these projects are moved to Category A. Category A projects will receive FTA's unconditional approval, and upon grant execution, funds can be drawn down. The POP is then presented to the INDOT Office of Transit, Manager for approval, and then submitted to FTA for its approval.

### **Applicant Award Notification and Appeal Process**

Concurrent with compiling the Program of Projects, all applicants receive written notification of the selection process. Applicants not receiving approval of their application may appeal the selection decision to the Manager of INDOT's Office of Transit. The process for filing an appeal is as follows:

1. Applicant must send, by certified mail, an appeal within 15 calendar days after receiving notification of INDOT's decision.

Mail To: Indiana Department of Transportation  
Office of Transit  
100 N. Senate Avenue  
Room N-955  
Indianapolis, IN 46204

6. INDOT will conduct a preliminary review within five working days, and if necessary, request by certified mail additional information from the applicant;

7. INDOT will allow five working days for receipt of additional materials;
8. INDOT's Office of Transit Manager will make a final decision within 15 working days from the receipt of the appeal request, or within 15 working days from the receipt of additional materials;
9. INDOT will notify the applicant in writing within five working days of its final decision;
10. Applicant may appeal INDOT's final decision in accordance with I.C. 4-21.5-3-1, *et seq.*

#### Contract Execution

Upon receiving FTA approval of the statewide application, INDOT will execute a grant contract with each nonurbanized grantee. Contracts will describe the responsibilities of each party and must be signed by the appropriate authorized official and attested. INDOT, State Budget Agency, Indiana Department of Administration and the Attorney General's Office then sign the contract. The contract execution process takes approximately three months. INDOT returns a copy of the fully executed contract to the grantee with a notice to proceed.

Contracts for New Freedom projects in urbanized will be executed between FTA and the designated recipient.

### **H. ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE**

INDOT will administer the New Freedom program, including developing and distributing applications, conducting the selection projects, and developing the Annual Program of Projects. INDOT will not use the 10% allowable administration funds for this administration.

#### Administration

INDOT administers the New Freedom Program as part of its overall FTA program administration, which includes the Sections 5310, 5311, and 5316 Programs. These activities include providing technical assistance during the application process (previously described), and continuing through contract execution, service implementation, vehicle purchases, if applicable, monitoring, financial management, audits, and project close-outs.

#### Planning

Planning assistance is available upon request and may include transit feasibility studies, ridership surveys, ridership estimates, routing and scheduling, revenue and cost

projections, and an identification of equipment needs. Further, INDOT has provided assistance in all nonurbanized counties for the development of a local Coordinated Plan.

### Technical Assistance

INDOT provides management and technical assistance to small urban and rural public transit providers to help develop knowledgeable transit management staff and improve the effectiveness of transit operations. INDOT provides a variety of technical assistance in the areas of funding, vehicle and equipment procurement, and vehicle maintenance, and training.

INDOT sponsors seminars, workshops and training sessions on rural transit management and operations and other related topics through the Rural Transit Assistance Program (RTAP), a comprehensive and flexible program of training, technical assistance, research, and support services for rural public and specialized transit agencies. RTAP has both a national component and a state component.

The National RTAP program develops products and services which are used in INDOT's State RTAP Program. In addition, INDOT receives an annual RTAP allocation which it uses to develop products and services for training and technical assistance specific to Indiana's transit operators. Although RTAP was developed as part of the FTA Section 5311 program specifically for rural transit systems, its goals, for example are to promote the safe and effective delivery of public transit in rural areas and make more efficient use of public and private resources, and to support the coordination of public, specialized, and human service transportation services are applicable to all areas, nonurbanized and urbanized, public transit operations and specialized transportation services. As such, INDOT envisions including New Freedom projects in its state RTAP program.

Indiana RTAP provides and supports a host of training opportunities, including Passenger Assistance Techniques training, and Drug and Alcohol Compliance and Reasonable Suspicion training, and offers a scholarship program for agencies to help offset the costs to send staff to other workshops and training programs. In addition, INDOT can arrange to provide assistance in other functional areas such as marketing and promotion, accounting and reporting, coordination, and personnel and labor relations. RTAP funding is not used for administrative, operating or capital assistance.

## **I. TRANSFER OF FUNDS**

For nonurbanized areas, all New Freedom funds will be administered as part of a New Freedom Program of Projects and will not be transferred to the Section 5311 Program. For urbanized areas under 200,000 in population, INDOT will transfer funds to the appropriate urbanized area FTA Account once project selection has been completed.

## **J. PRIVATE SECTOR PARTICIPATION**

By Federal statute, the public is required to be involved in the transportation planning process. Specifically, private providers must be consulted in developing transportation plans and programs in both urbanized and rural areas. To this end, New Freedom applicants are strongly encouraged to establish a local Transportation Advisory Committee (TAC) or board with private provider participation that would afford an opportunity to these providers for input into plan and project development. Applicants must encourage every possible transportation provider, including private-for-profit providers, to participate in the project. For capital projects, applicants are required to conduct a public hearing.

Additionally, the grantee is required to resolve any complaints from transportation providers resulting from a local decision or interpretation concerning the New Freedom program. The grantee is required to keep a record of correspondence related to the issue, information used in making its decision and the process used in resolving the issue. Also, the grantee must inform the transportation provider of the local appeal process and the transportation provider's rights under the process. If the complaint is not satisfactorily resolved, the originating party may appeal the grantee's decision to INDOT.

All complaints presented to INDOT will be heard by the Office of Transit's New Freedom Program Manager, the Office of Transit Manager and the Local Programs Division Director with concurrence by the INDOT Chief of Staff. The originating party must file with INDOT a written request of complaint within 15 calendar days following the grantee's final decision. The complaint request must a brief description of the issues and copies of all relevant information. INDOT will conduct preliminary review within five working days and, if necessary, request by certified mail additional information from the originating party or the grantee. INDOT will allow five working days for receipt of additional materials. INDOT will make a final decision within 15 calendar days from the receipt of the complaint request or, if additional material was requested, within 15 calendar days from the receipt of the additional material. INDOT will notify the originating party and the grantee of its decision within five calendar days. INDOT's decision may be appealed in accordance with Indiana Code 4-21.5-3-1, *et seq.*

## **K. CIVIL RIGHTS**

Under Title VI, Nondiscrimination, no person will be excluded from participation in, or denied the benefits of, a project funded in whole or in part by FTA [including assistance required for limited English proficient (LEP) persons] because of race, color, creed, national origin, sex, age, or disability. *Equal Employment Opportunity (EEO)* prohibits any recipient of FTA funds from discriminating against any employee or applicant for employment based on race, color, religion, sex, or national origin. Environmental Justice with regard to Minority Populations and Low-Income Populations requires that environmental justice principles be incorporated into existing programs, policies, and activities. The *Disadvantaged Business Enterprise (DBE) Program* requires that all recipients of FTA funds be responsible for meeting applicable regulations regarding participation by DBEs in U.S. DOT programs set forth at 49 CFR Part 26, or any revision or supplement thereto.

Documentation includes but is not limited to: quarterly Disadvantaged Business Enterprise utilization reports, Good Faith Effort documentation, the impact of grantee service provision on minority/disabled population and the employment make up of transit system personnel.

## **L. SECTION 504 AND ADA REPORTING**

Section 504 requires recipients of FTA funds to make special efforts to provide transportation that is accessible to individuals with disabilities. Americans With Disabilities Act (ADA) requires that equivalent services are provided to meet the needs of individual with disabilities. INDOT monitors grantee compliance with Section 504 and ADA requirements by apprising them of their responsibilities, requiring the appropriate certifications as part of the application process, reviewing their service hours and other operating characteristics to ensure that accessible and equivalent service is being provided, and collecting other documentation of compliance as appropriate as part of site visits.

## **M. PROGRAM MEASURES**

Under the Government Performance Results Act (GPRA), the Federal Transit Administration (FTA) is required by law to “establish performance goals to define the level of performance” and to also “establish performance indicators to be used in measuring relevant outputs, service levels, and outcomes” for each of its programs. Three measures have been established for the New Freedom Program:

1. Increases or enhancements related to geographic coverage, service quality and/or service times that impact availability of transportation services for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.
2. Additions or changes to environmental infrastructure (e.g., transportation facilities, side walks, etc), technology, and vehicles that impact availability of transportation services as a result of the New Freedom projects implemented in the current reporting year.
3. Actual or estimated number of rides (as measured by one-way trips) provided for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.

## **N. DESIGNATED RECIPIENT PROGRAM MANAGEMENT**

The following sections describe INDOT’s New Freedom program management as it relates to on-going accountability and oversight of Indiana’s New Freedom projects.

### *Accounting Systems, Financial Management, and Reporting*

INDOT has an established accounting and reporting system that meets or exceeds FTA requirements for financial management. In addition, all subrecipients must assure the

state that each has fiscal control and accounting procedures that will permit preparation of the required reports for the New Freedom program as well as a level of expenditures adequate to establish that such funds are used consistent with the rules and requirements of the New Freedom program. These systems will also allow for the accurate, current, and complete disclosure of all financially assisted activities, the establishment and maintenance of accounting records which are supported by source documents such as cancelled checks, paid bills, payrolls, etc. and which adequately identify the source and application of funds provided, the effective control and accountability of cash, real and personal property, and other assets; the comparison of actual expenditures with budgeted amounts, allowing for the development of performance or productivity data and unit cost information, where appropriate; the application of OMB cost principles, agency program regulations, and the terms of subrecipient's grant agreement to determine the reasonableness, allowability, and allocability of costs; and a procedure for minimizing the time elapsing between the receipt of Federal funds and local disbursement. All of these activities will also be documented and reviewed as part of a project audit and close-out.

INDOT and its grantees will also dispense and account for program funds in accordance with Indiana Code 5-11-1-2. INDOT monitors grantee expenditures, checking for eligibility and conducts periodic site visits of its grantees during which time random invoices are traced throughout the local accounting system.

Currently, INDOT requires all grantees receiving operating assistance to report financial and operating data on a quarterly and annual basis. Milestone reports are also required for all capital grants. Failure to provide these reports will result in INDOT withholding future reimbursement requests under the grant agreement. Also, INDOT compiles and publishes an annual report for all transit systems in the state based on information from this reporting system.

Grantees receiving capital assistance are required to keep appropriate property control records on all equipment and real property. Grantees are responsible for submitting these records to INDOT to meet the capital asset reporting requirement. Federal Office of Management and Budget and Federal Transit Administration guidelines are used in meeting this reporting requirement.

### Procurement

INDOT assists grantees with the procurement of grant related equipment. INDOT's guide for developing small vehicle specifications and general guide on procuring equipment and services will be provided to each New Freedom grantee. In addition, some equipment such as computers and passenger vehicles may be purchased from state quantity purchase awards.

#### 1. Standards

- a. Competition: All procurement will be conducted in a manner providing for full and open competition.

- b. Code of Conduct: Grantees must have a written code of conduct governing the performance of their employees engaged in the award and administration of contracts. Employees of the grantee shall not participate in selection, award, or administration of contract supported by federal and state funds if a conflict of interest, real or apparent, is involved.
- c. Purchase Review: Grantees must develop a process for reviewing purchases to avoid unnecessary and duplicate items. Consideration must be given to the most economical approach. Where appropriate, an analysis of lease versus purchase shall be made. All grantees are encouraged to use intergovernmental agreements, where possible.
- d. Price or Cost Analysis: Grantees shall perform a price or cost analysis with every procurement, including contract modifications. As a starting point the grantee must make an independent estimate before receiving bids or proposals. Usually a price analysis will be used to determine the reasonableness of the proposed contract price. This may also be established based on the catalog or market price of products sold in substantial quantities to the public, or based on price set by law. A cost analysis is required when the bidder is required to submit the cost elements of his estimated price (e.g., under professional service contracts such as, consulting or architectural and engineering). Also, a cost analysis is necessary when adequate price competition is lacking.
- e. Contract Awards: Grantees shall only make contract awards to responsible and responsive bidders. “Responsible” means a bidder who is capable of performing the contract requirements fully and who has the integrity and reliability that will assure good faith performance. “Responsive” means a bidder who has submitted a bid or quote conforming in material respects to the bid terms, conditions, and specifications. Federal regulations prohibit the use of contractors who have been debarred or suspended. INDOT will monitor adherence to this regulation by way of its annual compliance reviews and reviewing procurement documents for the presence of the Debarment and Suspension Certification (49 CFR Part 29).
- f. Contracts: All contracts must include all appropriate federal and state clauses. Most of these are identified in the Section 5311 grant assistance contracts between INDOT and the grantees. See **Exhibit 2** for a listing of applicable contract clauses.
- g. Contract Administration: Grantees must maintain a contract administration system, which ensures that contractors perform in accordance with the terms, conditions, and specifications of all purchases.

- h. **Contract Records:** Grantees shall maintain records to sufficiently detail the procurement history. At a minimum this should include the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- i. **Disputes and Protests:** Grantees are responsible for resolving all contractual and administrative issues arising out of procurement. Violations of law should be referred to the proper local authority having jurisdiction. If there is no local authority, the matter should be referred to INDOT. Grantees must have protest procedures to handle and resolve disputes relating to their procurement. A protester must exhaust all administrative remedies with the grantee before pursuing protest with INDOT.

## 2. Purchasing and Leasing

Most purchases and leases (procurement) made under the New Freedom program will be made through Sealed Bid (formal advertising) method. All procurement must be conducted in accordance with I.C. 5-22-7 Competitive Bidding, which has in most respects replaced I.C. 36-1-9 Purchasing and Leasing. Copies of all Indiana Codes related to procurement are available in Vol. II of the Section 5311 Program Manual.

- a. **Annual Purchases & Leases Over \$25,000:** Purchasing by Sealed Bids is required by state law (I.C. 5-22-7). The formal advertisement (notice) must be published in accordance with Indiana Code 5-3-1 Publication of Notices. Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the lowest responsible and responsive bidder. In addition to the published notice, INDOT strongly recommends direct solicitation to known vendors.

The grantee is responsible for preparing the bid contract and specification, advertising and soliciting bids, receiving and reviewing bids, and awarding the contract to the lowest responsible and responsive bidder.

An exception to the sealed bid requirement is for the development of specifications. A grantee may request proposals (using competitive procurement methods) for the development of specifications which will lead to a sealed bid procurement. The need to request proposals must be documented by the grantee and approved by the grantee's executive officer and INDOT. The resulting specification shall be subsequently issued for bid.

- b. **Annual Purchases and Leases Under \$25,000:** Purchases and leases under \$25,000 are considered small purchases, therefore relatively simple and



informal procurement methods may be used. Grantees are allowed two options under this situation:

- (1) If the grantee has small purchase procedures which meet the intent of I.C. 5-22-8, or which are stricter, then the grantee's procedures may be followed. If the grantee does not have small purchase procedures, they may invite quotes from at least three vendors known to deal in the type of purchase or lease being made. A copy of the specification should be mailed to the vendor not less than seven days before the time for receiving written quotes.
- (2) The grantee may purchase or lease in the open market without inviting or receiving quotes. However, INDOT does not recommend the use of option 2 except under emergency or severe time constraint situations.

- c. Request for Proposals: Request for Proposals (RFP) is the method generally used when conditions are not appropriate for the use of sealed bids and it is allowed by State law. One situation mentioned earlier is for the development of specifications. Also, a grantee may use the RFP method for the procurement of architectural, engineering, and land surveying services. Services of architects, engineers, and land surveyors must be procured in accordance with Indiana Code 5-16-11.1.

If this method is used, the following requirements apply:

- (1) The request must identify:
  - (a) All evaluation factors and their relative importance, including cost as a factor. Please note that cost may not be used as an evaluation factor for architectural and engineering services, in accordance with the federal Brooks' Amendment.
  - (b) Any bonding requirements or other evidence of financial responsibility.
- (2) Solicitation of an adequate number of qualified vendors.
- (3) Grantee must have a method for conducting technical evaluation for the proposals.
- (4) Contract award will be made to the responsible vendor whose proposal is most advantageous to the program.

- d. Sole Source Procurement: Grantees may purchase or lease parts for machinery or equipment that can only be purchased from the manufacturer of the machinery or equipment without advertising or bids.
- e. Pre-award and Post-delivery Audits of Vehicle Purchases: Grantee must certify to INDOT that it will conduct a pre-award and post-delivery audit of vehicles purchased with FTA funds. The three sections of both audits are: Buy American, Bid Specifications, and Federal Motor Vehicle Safety Standards. INDOT has produced a guide to meeting these regulations. It is called *A Guide To The FTA's Pre-award and Post-delivery Audits Of Rolling Stock Purchases* and copies may be requested from INDOT. Documentation of all pre-award and post delivery audits must be submitted to INDOT.

(1) **Pre-award Audits:** The grantee must ensure that audits are complete before the grantee enters into a formal purchase contract for vehicles.

- (a) **Buy America:** For vehicle purchases in excess of \$100,000, the grantee must review documentation from the bidder as to the cost of the vehicle's major components and primary sub-components, their country of origin, the location of final assembly, and any activities that will take place at the location. Cost information is used to determine whether a vehicle meets the Buy America regulation; 60% of the vehicles' components must be domestically produced. All information resulting from this audit must be kept on file by the grantee.

If the vehicle does not have to meet Buy America regulations, then the grantee must have the federal waiver letter on file.

This audit shall not be done by the bidder or manufacturer. The grantee must do the necessary review and certification or hire an independent third party contractor to conduct the review and certification.

- (b) **Bid Specification:** The grantee must assure that the vehicle(s) proposed is the same vehicle(s) as described in the bid specifications. Also, they must certify that the bidder is a "responsive manufacturer with the capability to produce" the specified vehicle.

If a grantee is purchasing eleven or more vehicles, they must also provide a resident inspector on-site where the

vehicles are being manufactured. This inspector must certify that they were on-site throughout the manufacturing process, monitored the vehicles' manufacturing, and must prepare a report about the manufacturing process.

- (c) **Federal Motor Vehicle Safety Standards:** If the vehicles being purchased are subject to FMVSS, the Grantee must ask for a certification from the bidder stating this fact. This bidder's self-certification must be kept on file.

If the vehicles are not subject to FMVSS, the bidder must provide a certification stating this. This certification must also be kept on file by the grantee. Therefore, the burden of proof is on the bidder to comply with this regulation.

- (2) **Post-delivery Audits:** The grantee must ensure that audits are complete before vehicle titles are transferred to the grantee.

- (a) **Buy America:** This is a certification that Buy America regulations (after change orders or other revisions) are still being met. If the vehicle does not have to meet Buy America regulations, then the grantee must have the waiver letter on file.

- (b) **Bid Specification:** This audit is to assure that the delivered vehicle(s) conform to the contract specifications. It must make sure that any change orders have been considered in the review. Road testing is required as a part of the audit review.

For procurement of eleven vehicles or more, the grantee must certify that the resident inspector was on-site throughout the manufacturing period and monitored the manufacturing process. A copy of the resident inspector's report must be kept on file.

- (c) **Federal Motor Vehicle Safety Standards:** The grantee must maintain on file the FMVSS certification by the bidder. If the vehicle(s) is not subject to FMVSS, then the grantee must maintain on file the bidder's certification that FMVSS do not apply.
- (d) **Bus Testing:** Any new bus model must be tested at the FTA test facility in Altoona, Pennsylvania in accordance with federal regulation 49 CFR PART 665. This

requirement covers all medium and heavy duty body-on-chassis and purpose built buses of 25 feet or greater. The grantee must require that the bidder/manufacturer provide the testing report before final acceptance of the vehicle(s). It is the grantee's responsibility in dealing with the bidder/manufacturer to determine if the vehicle is subject to these requirements. FTA and the manufacturer pay the cost of testing.

### 3. INDOT Review

All bid contracts, invitation for bids, and request for proposals for purchases or leases of \$25,000 or greater must be submitted to INDOT for review. In addition, grantees must make all technical specifications available for review, when INDOT believes such a review is needed to ensure that the purchase or lease specified is consistent with the grant award. Also, grantees must make available all procurement documentation upon request by INDOT.

#### Satisfactory Continuing Control

New Freedom grantees must maintain satisfactory continuing control over facilities and equipment and ensure that they are used in transit service. A grantee must demonstrate control and use as required in FTA Circular 5010.1C. INDOT will monitor these stipulations through the annual compliance reviews. Any change in the use of vehicles or equipment must be approved by INDOT.

1. Management Requirements: The grantee shall provide management records of all vehicles and equipment based on the following, as a minimum effort:
  - a. Vehicle and equipment control records must be maintained. These records shall include:
    - (1) description of vehicle or equipment;
    - (2) serial or identification number;
    - (3) purchase date and price;
    - (4) source of property;
    - (5) title holder (owner);
    - (6) federal participation;
    - (7) physical location;
    - (8) current use and condition;
    - (9) disposal data; and
    - (10) disposal price;
  - b. A physical inventory of vehicles and equipment must be taken and the results reconciled with the control records at least every two years. A

grantee must maintain a listing of a vehicle inventory, peak vehicle requirements and active vehicles.

- c. A control system must be developed to safeguard against loss, damage, or theft of vehicles and equipment. Each grantee is required to maintain adequate insurance coverage as required by federal, state and local law.
- d. Adequate maintenance procedures and programs must be developed to keep vehicles and equipment in good condition. Preventive maintenance programs are required for all New Freedom funded vehicles.

### Property Management

Subrecipients must provide management records of all vehicles and equipment, including a physical inventory which is reconciled a minimum of every two years. Said inventory must contain a description of the vehicle or equipment, serial or identification number, purchase date and price, source of property, title holder (owner), federal participation, physical location, current use and condition, and disposal data. In addition, subrecipients must indicate their peak vehicle requirements and denote active vehicles on the listing.

INDOT requires all grantees to maintain adequate insurance coverage (collision/comprehensive/liability) and to provide assurance of coverage to protect FTA's 80% interest in the vehicle.

### Vehicles and Equipment Use

INDOT encourages the maximum use of all FTA-funded vehicles. Vehicles purchased with New Freedom funds will primarily be used for New Freedom projects, which have been derived from locally developed coordinated plans. However, so long as New Freedom needs continue to be met, vehicles can also be used for other Federal Programs. If the original subrecipient no longer needs the vehicle for the purposes for which it was acquired, the vehicle can be kept in use for the New Freedom program by transferring it to another subrecipient. The transfer will be shown in an INDOT active program of projects. Once the vehicle is no longer needed for New Freedom program purposes, the vehicle will be used first in connection with other FTA-sponsored activities, and then for activities sponsored by other Federal agencies. Titles for vehicles purchased with New Freedom funds will be held by the subrecipient, including titles to vehicles, which are leased to public bodies, private nonprofit, or private for-profit organizations.

Equipment is defined as tangible, non-expendable, personal property having a useful life of more than one year and a unit price of \$300 or more. Typically, equipment includes

such items as major spare parts, computer systems, communication system major maintenance tools, passenger shelters, etc.

Vehicles and equipment shall be used in the program for which it was acquired as long as it is needed. This is true even if New Freedom funding does not continue to fund the program. All grantees are required to submit an “annual certificate of use” for all vehicles and equipment acquired under the New Freedom Program.

The grantee may make vehicles or equipment available for use in other programs or projects currently or previously supported by federal funds. However, this use may not interfere with the work on the program or project for which it was originally acquired. User fees shall be considered in this situation. Federally funded vehicles and equipment may not be used to provide services for a fee to compete unfairly with private companies.

### Maintenance

Adequate maintenance procedures and programs must be developed to keep vehicles and equipment in good condition. Preventive maintenance programs are required for all New Freedom funded vehicles. INDOT provides a preventative maintenance manual and training through the Rural Transit Assistance Program (RTAP).

### Disposition

INDOT has established guidelines for establishing useful life and the disposition of vehicles, equipment, and/or real property when these items are no longer needed for the original project or program for which they were acquired. Disposition of said items must be made in accordance with Indiana Code 36-1-11 Disposal of Real or Personal Property. Subrecipients are required to submit written disposition plans to INDOT for review and approval, and INDOT must be notified of all subsequent disposition actions. Income from dispositions must be retained by the subrecipients for the transit program. INDOT will track equipment transfers in Program of Project (POP) reports that are submitted to the Federal Transit Administration. Documented evidence that the income is being used for the transit program must be provided to INDOT.

#### 1. Planned Disposition

When vehicles, equipment, and/or real property are no longer needed for the original project or program, disposition of said items must be made in accordance with Indiana Code 36-1-11 Disposal of Real or Personal Property. Real property is defined as land and buildings, including any accessories added to the land or buildings.

Real property and items of equipment with a current per-unit fair market value of less than \$5,000 must be disposed of in accordance with Indiana Code with no further obligation to INDOT. Based on INDOT’s useful life policy, vans reaching

the threshold of 100,000 miles or four (4) years, INDOT no longer has any financial interest in. INDOT must be notified of all disposition actions.

Real property and equipment with a current per-unit fair market value of \$5,000 or greater must also be disposed of in accordance with the Indiana Code. However, a written disposition plan must be submitted to INDOT for review. Income from the disposition must be retained by the grantee for the transit program. INDOT will track equipment transfers in Program of Project (POP) reports that are submitted to the Federal Transit Administration. Documented evidence that the income is being used for the transit program must be provided to INDOT.

## 2. Vehicle Disposition

Disposition actions for vehicles with fair market values of \$5,000 per vehicle or greater must be submitted to INDOT. The preferred method of disposition is the transfer of vehicles to another INDOT grantee. When INDOT is notified that vehicles are available for disposition, INDOT will mail a notice of availability of these vehicles to all current INDOT grantees. The vehicles will be available for 30 calendar days for transfer to other INDOT grantees, in accordance with I.C. 36-1-11. Under a transfer arrangement the grantee, disposing of the vehicles shall receive payment for their pro-rata share of their local investment. This shall be based on the fair market value of the vehicles multiplied by the percent local match. If no other grantee is interested in the vehicles, then they may be disposed of. FTA requires that the proceeds of any disposition actions be used for public transportation. This arrangement is consistent with I.C. 36-1-11 and FTA Circular 5010.1C. If other New Freedom grantees are interested and obtain a vehicle under this section, INDOT will update the applicable Program of Projects annually, to reflect such equipment transfers.

For mid-life Sale of Vehicles (“Like-kind Exchange”), Grantees may elect to use the trade-in value or the sales proceeds from a vehicle to acquire a replacement vehicle of a like kind. This option may be undertaken before the end of the useful life of the vehicle. If a grantee chooses to re-invest the proceeds, 100 percent of the net proceeds must be applied to the acquisition of the replacement vehicles.

This initiative by the Federal Transit Administration, was published in the August 28, 1992 Federal Register. It is known as 49 CFR Change VI-Change in Policy on Sale and Replacement of Transit Vehicles; Rule. This policy change is an effort to stimulate the economy and develop a secondary, used-bus market. It is expected to increase the rate of new vehicle acquisitions, thereby accelerating the introduction of “cleaner” vehicles in terms of air quality and vehicles that comply with the Americans with Disabilities Act.

## 3. Insurance Settlements

In the event of loss due to casualty, fire, or theft the insurance settlement may be used toward the replacement of the lost items. An estimate of the insurance settlement must be provided to INDOT to determine the settlement value of the items. If the items are determined to be no longer necessary, then the settlement shall be used for the transit program. Documented evidence that the settlement is being used for the transit program must be provided to INDOT.

4. Determination of Fair Market Value

The fair market value for vehicles and equipment may be determined by the use of the straight-line depreciation method or by the averaging of two independent appraisals. If straight-line depreciation is used for valuing vehicles, then it should be based on the useful life years specified in Subsection D of this plan. We recommend that all vans be valued based on the straight-line depreciation method.

Passenger Vehicle Classification and Useful Life

1. Vehicle Classifications

The INDOT has developed the following passenger vehicle classifications.

Van: Vans are further broken down into four sub-categories:

- (1) Mini-Vans: Seven passenger or less vans that are commercially available from automobile manufacturers as a part of their standard vehicle production line;
- (2) Standard Van: Eight passenger or greater vans that are commercially available from automobile manufactures as a part of their standard vehicle production line. This includes maxi-vans;
- (3) Modified Van: A modified van is a standard van or maxi-van that has undergone some body or structural change. Typical changes include a raised top, widened passenger entry door, extended stepwell at passenger entrance, and wheelchair lift; and
- (4) Body On Van Chassis (BOVC): A passenger Light Transit Vehicle (LTV) built on a van chassis. BOVCs have wider and/or longer bodies installed on a van chassis. Typically these vehicles are built by School Bus and Recreational Vehicle manufacturers.
- (5) Body On Truck Chassis (BOTC): This passenger vehicle is similar to the BOVC in that the body is attached to a truck chassis. However, this vehicle is a heavier duty vehicle because it is built on a truck chassis. It is for this reason it is classified separately from a van.



(6) Transit Bus: A transit bus is designed and manufactured specifically for transit service (i.e., purpose built). The construction of the body and chassis is integrated and normally done by one manufacturer. Most transit buses are diesel powered. Transit buses are broken down into three size sub-categories:

- (1) Small Transit Bus: Any transit bus under 30 feet
- (2) Medium Transit Bus: Any transit bus 30 to 34 feet in length.
- (3) Standard Transit Bus: Any transit bus 35 to 40 feet in length.

## 2. Vehicle Useful Life

INDOT has developed the following vehicle useful life policy for the purpose of evaluating vehicle disposition requests and capital replacement applications. The useful life policy is shown in **TABLE 1**. However, merely obtaining sufficient miles and years on a vehicle does not guarantee federal capital assistance for its replacement. New Freedom applications are evaluated competitively based on project justification, coordination, fiscal capabilities, and capital project priorities.

The primary criterion in determining the vehicle useful life is mileage. The age of the vehicle will be considered only after the vehicle's mileage has been determined to be at or greater than the mileage categories listed in **TABLE 1**.

**TABLE 1: VEHICLE USEFUL LIFE POLICY**

<u>Vehicle Classification</u>	<u>Miles</u>	<u>Years</u>
Taxi (sedan/wagon)	100,000	4
Vans:		
- Mini-Van	100,000	4
- Standard	100,000	4
- Modified	100,000	4
- Body on Van Chassis (BOVC)(LTV)	100,000	4
Body On Truck Chassis (BOTC)	150,000	6
Transit Buses:		
- Small (under 30')	200,000	7
- Medium (30' - 34')	350,000	10
- Standard (35' - 40')	500,000	12

The age of the vehicle is calculated from the date the vehicle is actually placed into service, and not from the vehicle model year. On rare occasions, a grantee may have a vehicle that needs replacement prior to reaching its designated mileage. INDOT will consider these exceptions on a case by case basis.

### Monitoring

INDOT has undertaken an effort to analyze the compliance practices of its grantees and their subcontractors. This effort involves a comprehensive review of each grantee's practices to determine compliance with federal and state regulations. INDOT performs compliance reviews through desktop reviews as well as on-site reviews. INDOT submits a compliance review report to the grantees. This report documents the findings from the desktop and on-site review and the corrective actions that should be taken to address the findings. Non-compliance items are noted as well as any comments in areas where the system is in general compliance. Included are corrective actions that should be taken to address the areas of non-compliance. Failure to correct areas of non-compliance may result in probationary actions or grant termination in the most severe cases.

Based on the quarterly and annual reports, INDOT evaluates potential problem areas for each grantee. Areas that are identified as possible problem areas are discussed formally through written means or informally through telephone calls with local representatives for explanation and/or resolution.

INDOT has developed a capital asset database using the property control records prepared by the grantees. This database is used to track capital assets and dispositions, and to cross check information with other reporting systems. In addition, the data base information is used for capital programming, such as determining the number of vehicles reaching the end of their useful life and calculating average prices for certain types of vehicles.

### Audits and Close-Outs

Local grantees are responsible for securing organization-wide or grant specific audits. All audits performed on grantees under the New Freedom program shall be in accordance with Office of Management and Budget, Circular A-133. The closeout of New Freedom grants will occur after INDOT has received, reviewed, and accepted the audit report(s) and any final grant reports, and notified the grantee of such acceptance.

The legally authorized auditing body for all grantees (units of local government - cities, counties, towns, etc.) is the State Board of Accounts. Grantees that contract with private companies for transit service must require that these companies provide them with their annual audit. The grantee is responsible for reviewing all sub-contractors' audit reports and appropriately resolving any findings. These sub-contractors' audits must be submitted to INDOT for review and acceptance.

## **O. OTHER PROVISIONS**

INDOT will execute the annual certifications and assurances with the submission of the New Freedom Program of Projects. All New Freedom applicants are required to execute and submit all required certifications and assurances as outlined in the proposed FTA New Freedom Circular. INDOT will monitor compliance with all of these provisions during the application

process and as part of site visits throughout the operation of the project. Further clarification on specific provisions is offered below.

#### Environmental Protection

New Freedom projects are generally felt to have very limited or no environmental effects, and as such would be categorical exclusions under 23CFR771.117(c), divided into two groups. The first group, which have very limited or no environmental effects at all, are planning and technical studies, preliminary design work, program administration, operating assistance, and transit vehicle purchases. No environmental documentation is required for these projects. The second group involves more construction and greater potential for off-site impacts, such as new construction or expansion of transit terminals, storage and maintenance garages, office facilities, and parking facilities. It is anticipated that all of INDOT's New Freedom projects will fall into group #1 and as such, require no environmental documentation. However, INDOT will screen all projects for compliance with the environmental protection regulations to ensure that all potential projects are compliant.

#### Exclusive School Transportation

New Freedom applicants are not permitted to provide exclusive school bus service and will indicate this by executing the appropriate agreement as part of their grant contract.

#### Buy America

New Freedom applicants will comply with 49 USC 5323(j), 49 CFR Part 661, and any other implementing guidance issued by FTA.

#### Pre-Award and Post Delivery Audits

New Freedom applicants will execute an assurance signifying their intent to conduct pre-award and post-delivery audits of any vehicles purchased with FTA funds. INDOT has produced a guide to meeting FTA's regulations for the conduct of these audits entitled A Guide to the FTA's Pre-award and Post-delivery Audits of Rolling Stock Purchases, which may be requested from INDOT.

#### Interim Bus Testing, 49 CFR, Part 665

New Freedom applicants must certify their compliance with the federal regulation before accepting any new bus models purchased or leased with FTA funds.

#### Drug Free Work Place Requirements

INDOT is in compliance with the Drug Free Work Place requirements and annually reconfirms its compliance as required by the Drug Free Workplace Act of 1988.

### Drug and Alcohol Testing

All New Freedom applicants must implement the provisions of the Omnibus Transportation Employee Testing Act of 1991, which requires drug and alcohol testing of safety sensitive employees. Grantees certify their compliance annually and submit to INDOT an administrative summary of the previous year's drug and alcohol testing activities.

### Debarment and Suspension

All New Freedom applicants are required to execute the debarment and suspension second tier certification.

### Restrictions on Lobbying

All New Freedom applicants are required to execute the restrictions on lobbying certification. INDOT will monitor conformance with Federal Restrictions on Lobbying through on-site compliance review questions, in addition INDOT will review all applicable procurement documents for the presence of the Lobbying Certification. Lobbying restrictions apply to grants, contracts, and cooperative agreements involving \$100,000 or more (Section 319 of Public Law 101-121).

### Miscellaneous Requirements

*Section 5333(b).* Requires the applicant to comply with applicable labor requirements and protective provisions for employees of surface transportation providers.

*Charter Rule.* FTA applicants are prohibited from providing any charter service using FTA funded equipment or facilities if there is at least one private charter service operator willing and able to provide that service that the applicant is proposing to provide. There are seven exceptions that are explained in the rule, 49 CFR PART 604. **(NOTE: INDOT does not allow Charter Service.)**

*Commercial Driver's License.* All drivers of vehicles designed to transport more than 16 persons (including the driver) must have a commercial driver's license (CDL). Mechanics that drive the vehicles must also have a CDL.

*Lease Versus Buy Considerations.* Capital funds may be used to lease capital assets from another party in cases where it is determined that leasing would be more cost effective than either purchasing or constructing the asset. Cost effectiveness comparisons must be conducted in accordance with 49 CFR Part 639.

*Evaluation of Flood Plain* (if applicable, capital transit facilities only). Applicants must conduct analysis of flood hazards if construction is within a flood plain.

*Real Estate Acquisition and Relocation* (if applicable, capital transit facilities only). Applicant must meet federal requirements for acquisition and relocation of private residents and businesses.

*FTA Safety Jurisdiction.* Failure to correct any condition FTA believes "creates a serious hazard of death or injury" will result in loss of federal assistance.

**P. STATE MANAGEMENT PLAN REVISIONS AND UPDATES**

INDOT will complete and submit to FTA revisions to this State Management Plan only when significant changes occur in the Federal New Freedom Program (as in finalization of, or changes to, the New Freedom Program Circular) or when significant changes occur in INDOT's program administration.

## **Exhibit 1. Application Forms**

**SECTION 5317 NEW FREEDOM PROGRAM ASSISTANCE APPLICATION**

**I. REQUIRED APPLICATION INFORMATION:**

**1. APPLICANT**

APPLICANT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

E-MAIL \_\_\_\_\_

**2. COORDINATED PUBLIC TRANSPORTATION-HUMAN SERVICE  
TRANSPORTATION PLANS (COORDINATED PLANS):**

New Freedom projects must have been developed from a locally developed Coordinated Plan. Please indicate:

- \* Name of Plan (area covered): \_\_\_\_\_
- \* Lead Agency Which Developed the Plan: \_\_\_\_\_
- \* Date Plan Was Adopted: \_\_\_\_\_
- \* Plan is ( ) Accepted by, and on file with, INDOT ( ) Plan is included with this submission

**3. TYPE OF APPLICANT:**

- ☐ 5311 Grantee      ☐ 5307 Grantee  
or  
( ) New Applicant in (check one) ☐ Nonurbanized Area ☐ Under 200,000 Urbanized Area  
(Please check appropriate category below:)
- ☐ Unit of Local Government (City, County, or Town)  
☐ Public Transit Corporation established under Indiana Code 36-9-4-11  
☐ Regional Transportation Authorities (RTA) as established under I.C. 36-9-3-2  
☐ Regional Planning Commissions as established under I.C. 36-7-7  
☐ or non-profit organizations with formal resolution of the local governing board of an eligible public recipient.

**4. TYPE OF APPLICATION:**

- ☐ Operating      ☐ Capital
- \* Identify Grant Year \_\_\_\_\_
- \* Amount of Section 5317/New Freedom Operating Federal Funds Requested \_\_\_\_\_
- \* Amount of Section 5317/New Freedom Capital Federal Funds Requested \_\_\_\_\_

## **II. PROJECT DESCRIPTION**

### **A. APPLICANT, EXISTING SERVICES, AND SERVICE AREA**

1. Provide a brief description of the applicant and its background with implementing this type of project.
2. Provide a brief description of the applicant's existing services.
3. List current sources and amounts of local funding.
4. Provide a description of the service area (provide demographic, economic, and geographic information).

### **B. PROPOSED PROJECT**

Describe the proposed project, indicating the specific service to be provided to implement, support, or maintain transportation service to individuals with disabilities in order to access employment or employment-related activities (note: proposed services must be beyond those existing for, and/or the minimum requirements of, ADA:

#### **Eligible New Freedom Activities**

1. New Freedom program funds must be used in projects designed to assist individuals with disabilities with accessing transportation services, including transportation to and from jobs and employment support services. For the purpose of the New Freedom Program, "new" service is any service or activity that was not operational before August 10, 2005 and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Plan (TIP) or the State Transportation Improvement Plan (STIP). All projects must be derived from a local Coordinated Plan. Projects not included in a coordinated plan will not be eligible.
  - a. New Public Transportation Services Beyond the ADA. The following activities are examples of eligible projects meeting the definition of new public transportation:
    - [ ] Enhancing paratransit beyond minimum requirements of the ADA. ADA complementary paratransit services can be eligible under New Freedom in several ways as long as the services provided meet the definition of "new."
    - [ ] Feeder services. New "feeder" service (transit service that provides access) to commuter rail, commuter bus, intercity rail, and intercity bus stations.
    - [ ] Making accessibility improvements to transit and intermodal stations not designated as key stations.
    - [ ] Travel training. New training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities.



See FTA Circular 9045.1 for the New Freedom Program Guidance and Application Instructions, May 1, 2007 for additional examples of “new” service.

- b. New Public Transportation Alternatives Beyond the ADA. The following activities are examples and should not be considered an exhaustive list of projects that are eligible as new public transportation alternatives beyond the ADA under the New Freedom Program:
  - [ ]Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs.
  - [ ]Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers.
  - [ ]Supporting new volunteer driver and aide programs.
  - [ ]Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation.

See FTA Circular 9045.1 for the New Freedom Program Guidance and Application Instructions, May 1, 2007 for additional examples of “new” service.

2. Identify the number of estimated individuals with disabilities to be served and how this estimate was derived.
3. Identify the number and locations of employers to be served.
4. Estimate the number of jobs that are anticipated to be accessed.
5. As may have been identified in the local Coordinated Public Transit-Human Service Transportation Plan, how does this project:
  - i. Address identified service gaps or other issues?
  - ii. Address any identified issues and challenges of the project area?
  - iii. Impact transportation services for individuals with disabilities, either via expanded or increased geographic coverage, service quality, or service times?
6. For capital projects, provide a brief description of the items to be purchased, indicating specific milestones for the project, including the anticipated completion date.
7. How will this project be sustained in the event that sufficient New Freedom funding is not available to continue the project?

**III. PROJECT BUDGET: OPERATING OR CAPITAL**

**CY 200\_\_ NEW FREEDOM OPERATING ASSISTANCE BUDGET**

**SYSTEM NAME: INSERT SYSTEM NAME**

**PROJECT TIME PERIOD: January 1, 200\_\_ to December 31, 200\_\_**

**OPERATING PROJECT BUDGET** (please double-click and enter figures)

Taxes	\$0
Purchased Transportation	\$0
Miscellaneous Expense	\$0
Leases & Rentals	\$0
<b>TOTAL EXPENSES</b>	<b>\$0</b>

<b>OPERATING REVENUES</b>	<b>AMOUNT</b>
Passenger Fares	\$0
Special Transit Fares	\$0
<b>SUBTOTAL FARE REVENUE</b>	<b>\$0</b>

School Bus Service	\$0
Auxiliary and Non-Transportation Revenue (please specify)	\$0
<b>SUBTOTAL OTHER REVENUE</b>	<b>\$0</b>

Taxes Levied Directly by Transit System (PTC)	\$0
General Fund	\$0
Other (please specify)	\$0
<b>SUBTOTAL LOCAL SUBSIDY</b>	<b>\$0</b>

<b>LOCALLY DERIVED INCOME (LDI)</b>	<b>\$0</b>
-------------------------------------	------------

<b>STATE SUBSIDY</b>	
State Subsidy (please specify)	\$0
<b>SUBTOTAL STATE SUBSIDY</b>	<b>\$0</b>

Federal FTA Subsidy (New Freedom)	\$0
Other Federal Subsidy (please specify)	\$0
<b>SUBTOTAL FEDERAL SUBSIDY</b>	<b>\$0</b>

<b>GRAND TOTAL REVENUES</b>	<b>\$0</b>	<b>OK</b>
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<b>Prepared by:</b>		<b>Date:</b>	
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**CY 200\_\_ NEW FREEDOM CAPITAL BUDGET**

**SYSTEM NAME: INSERT SYSTEM NAME**

**PROJECT TIME PERIOD: January 1, 200\_\_ to December 31, 200\_\_**

**CAPITAL PROJECT BUDGET** (double-click spreadsheet to enter figures)

<b>SYSTEM NAME:</b>	
<b>PROJECT TIME PERIOD:</b>	

**TOTAL CAPITAL EXPENSES** **\$0**

**PROJECT FINANCING**

Local (specify source) **\$0**

Federal (FTA New Freedom) **\$0**

Other (specify source) **\$0**

**TOTAL PROJECT FINANCING** **\$0**

Does expense = financing? **OK**

<b>Prepared by:</b>		<b>Date:</b>	
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**IV. LIST OF PUBLIC TRANSPORTATION PROVIDERS & LABOR UNIONS**

[illegible]

## V. CATEGORICAL EXCLUSION CLASSIFICATION CHECKLIST (CAPITAL PROJECTS ONLY)

The following checklist identifies transit projects that are considered Categorical Exclusions (CEs) by FTA. Please check the category or categories under which your project should be classified. If your project does not fall under any of the standard categories, but you feel it meets the criterion of a CE (the project will have no significant impact on the environment), then provide project information justifying a CE's classification.

The \_\_\_\_\_ capital project is a categorical exclusion because it is for:

**(Name of Applicant)**

- ☐ Planning and technical studies which will not fund the construction of facilities or acquisition of capital equipment.
- ☐ Engineering to define the elements of a proposal or alternatives sufficiently so that environmental effects can be assessed.
- ☐ Ridesharing activities and transportation corridor fringe parking facilities.
- ☐ Program administration and technical assistance activities by the applicant to administer Section 5311 funds.
- ☐ Project administration and operating assistance to continue existing service or increase service to meet demand.
- ☐ Purchase of vehicles of the same type (same mode) either as replacements or to increase the size of the fleet where such increase can be accommodated by existing facilities or by new facilities which themselves are within a categorical exclusion.
- ☐ Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where no additional land is required and there is no substantial increase in the number of users.
- ☐ Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant physical impacts off the site where the facility is located.
- ☐ Installation of signs, small passenger and bus shelters, and traffic signs where no substantial land acquisition or traffic disruption will occur.
- ☐ Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
- ☐ Acquisition of land in which the property will not be modified, the land use will not be changed, and displacements will not occur. For projects other than FTA advance land loans, this categorical exclusion is limited to the acquisition of minor amounts of land. This is undertaken for the purpose of maintaining the current land use and preserving alternatives to be considered in the environmental process. Advance land acquisition shall not limit the evaluation of alternatives, including shifts in alignment for a construction project, which may be required in the National Environmental Policy Act process.
- ☐ Emergency repairs under 23 U.S.C. 125 which do not substantially change the design and are commenced during or immediately after the occurrence of a natural disaster or catastrophic failure.

## **VI. REQUIREMENTS AND CERTIFICATIONS**

### **1. REPORTS AND INSPECTIONS**

The \_\_\_\_\_, herein referred to as the Grantee, agrees to submit to the Indiana Department of Transportation (INDOT), such annual or special financial and operating reports as the INDOT may reasonably request. The Grantee also agrees to make available for inspection, by any duly authorized agent of the INDOT, any records, documents, leases, operating and use agreements and other instruments which affect the Grantee and are pertinent to this project.

### **2. STATE INDEMNIFICATION**

The Grantee agrees to indemnify, defend, and hold harmless the INDOT, the State of Indiana and its agents, officers, and employees from all claims and suits for loss of or damage to property; including, the loss of use thereof and injuries to or death of persons, the property of officers, agents and employees of the Grantee or its subcontractors; and from all judgments recovered therefore, and from expenses in defending said claims, or suites, including court costs, attorney's fees and other expenses, caused by an act or omission of the Grantee and/or subcontractors, their respective agents, officers, servants and employees, and not caused by the sole fault or negligence of the INDOT, the State of Indiana, or its respective agents, officers and employees.

### **3. GENERAL REQUIREMENTS**

The Grantee shall immediately notify the INDOT of any change in conditions or of any event, which may significantly affect the Grantee's ability to perform the Project in accordance with the provisions of this Application and the subsequent Authorization.

Any proposed change in the Project, as described in this Application, must be made by the mutual consent of the Grantee and INDOT; and must have prior written approval of the INDOT.

Any provision of this document (not governed by federal law and regulation, whether or not incorporated within this document) shall be construed and interpreted in accordance with the laws of the State of Indiana.

### **4. FISCAL AND ADMINISTRATIVE PROVISIONS**

The Grantee shall comply with fiscal and administrative provisions detailed in Indiana Code 36-1-8, 36-1-9, and 36-1-10 or applicable federal requirements, whichever is most restrictive.

**5. FEDERAL CERTIFICATIONS AND ASSURANCES FOR SECTION 5317/NEW  
FREEDOM FEDERAL ASSISTANCE PROGRAMS**

Name of Applicant: \_\_\_\_\_

**The Applicant agrees to comply with applicable requirements of Categories 01 - 22.** \_\_\_\_\_  
**(The Applicant may make this selection in lieu of individual selections below)**

**OR**

**The Applicant agrees to comply with applicable requirements of the following  
categories it has selected:**

- |     |   |       |
|-----|---|-------|
| 01. | Required of Each Applicant  | _____ |
| 02. | Lobbying (Applies to grants in excess of \$100,000)   | _____ |
| 03. | Procurement Compliance  | _____ |
| 04. | Private Providers of Public Transportation  | _____ |
| 05. | Public Hearing  | _____ |
| 06. | Acquisition of Rolling Stock<br>(Applies to grants for the purchase of revenue rolling stock) | _____ |
| 07. | Acquisition of Capital Assets by Lease  | _____ |
| 08. | Bus Testing   | _____ |
| 09. | Charter Service Agreement   | _____ |
| 10. | School Transportation Agreement   | _____ |
| 11. | Demand Response Service   | _____ |
| 12. | Alcohol Misuse and Prohibited Drug Use  | _____ |
| 13. | Interest and Other Financing Cost   | _____ |
| 14. | Intelligent Transportation Systems  | _____ |
| 15. | Urbanized Area Formula Program  | _____ |
| 16. | Clean Fuels Grant Program   | _____ |
| 17. | Nonurbanized Area Formula Program   | _____ |
| 18. | Job Access and Reverse Commute Program  | _____ |
| 19. | Alternative Transportation in Park and Public Lands Program                                   | _____ |
| 21. | Infrastructure Finance Projects   | _____ |



22. Deposits of Federal Financial Assistance to a State Infrastructure Bank \_\_\_\_\_  
FTA intends that the certifications and assurances the Applicant has selected above, should apply, as required, to each project for which the Applicant seeks now, or may later, seek FTA assistance during **Federal Fiscal Year 200\_\_**.

## 6. LOCAL ASSURANCES

The grantee hereby assures and certifies with respect to this application for New Freedom Program funding that:

- a. The Applicant has the requisite fiscal, managerial and legal capability to carry out the New Freedom Program and to receive and disburse Federal funds.
- b. This project was developed out of the efforts of a locally developed coordinated public transit-human services transportation plan which has already been submitted to INDOT or is being submitted with this application.
- c. Private for-profit transit and para-transit providers have been afforded a fair and timely opportunity by the applicant to participate to the maximum extent feasible in the planning and provision of the proposed transit services.
- d. The Applicant has the maximum extent feasible coordinated with other transportation providers and users, including social service agencies capable of purchasing service.
- e. Some combination of local and/or private funding sources has or will be committed to provide the required local share.

## 7. VERIFICATION

I am an officer of the applicant corporation herein and am authorized to make this verification on its behalf. The statements in the foregoing document are true to my own knowledge. By signing below, I declare that the Applicant has duly authorized me to make these certifications and assurances on the Applicant's behalf and bind the Applicant's compliance (attach authorizing resolution or other document witnessing this authorization). Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and administrative guidance required for each application it makes to the Federal Transit Administration (FTA) in **Federal Fiscal Year 200\_\_**, as well as all other State and local assurances and certifications.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to INDOT or FTA regarding this project, and acknowledge that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, and implemented by U.S. DOT regulations, "Program Fraud Civil Remedies, " 49 CFR Part 31 apply to any certification, assurance, or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance; or submission made in connection with the Federal public transportation program authorized in 49 U.S.C. chapter 53 or any other statute.

In signing this documentation, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

<b>Name of Chief Executive Officer:</b>	
<b>Title:</b>	

<b>Date of grant submittal:</b>	
---------------------------------	--

Signature:

\_\_\_\_\_  
Chief Executive Officer

**AFFIRMATION OF APPLICANT'S ATTORNEY**

for \_\_\_\_\_ (name of Applicant)

As the undersigned Attorney for above named Applicant, I hereby affirm to the Applicant that it has authority under state and local law to make and comply with the certifications and assurances as indicated on the foregoing pages, I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances or of the performance of the project.

Date: \_\_\_\_\_

\_\_\_\_\_  
Applicant's Attorney

Unless the Applicant seeks only an FTA university and research training grant authorized by 49 U.S.C. 5312(b), the Applicant's legal counsel is required to affirm the legal capacity of the Attorney's affirmation.

INDOT\_New Freedom\_Application\_Forms\_5\_30\_07

## **Exhibit 2. Required Federal Contract Clauses**

Buy America Requirements  
Cargo Preference  
Seismic Safety  
Energy Conservation Requirements  
Clean Water > \$100,000  
Bus Testing  
Pre-Award and Post Delivery Audit Requirements  
Lobbying > \$100,000  
Access to Records and Reports  
Federal Changes  
Bonding Requirements  
Clean Air > \$100,000  
Recycled Products  
Davis-Bacon Act  
Contract Work Hours and Safety Standards Act  
Copeland Anti-Kickback Act  
No Government Obligation to Third Parties  
Program Fraud and False or Fraudulent Statements and Related Acts  
Termination  
Debarment and Suspension >\$100,000 (Nonprocurement)  
Federal Privacy Act Requirements  
Civil Rights  
Breach of Contract and Dispute Resolution > \$100,000  
Disadvantaged Business Enterprises  
State and Local Law Disclaimer  
Incorporation of Federal Transit Administration (FTA) Terms  
Executive Order No. 90-5 (Drug Free Certification)

Sample contract clauses meeting the above requirements are available from the INDOT Office of Transit.

Exhibit 3. INDOT New Freedom Competitive Selection Worksheet		
Yes No	All Required Application Exhibits & Forms Provided and Complete (if no, please explain and indicate necessary remedy and/or follow-up).	
Yes No	Based on the information provided, was this application derived from a locally developed plan? <i>(If yes, indicate the page and/or section of the plan where the project is referenced and any other comments):</i>	
Lead Agency and/or Plan Name:		
Name of Agency Adopting Plan and Date Adopted:		
Project Was Derived from a Locally Developed Coordinated Plan	Attended Regular Mtgs.	Yes No
	Participated in Surveys/Inventories	Yes No
	Other (Be Specific)	
<b>1. Application Derived from Locally Developed Coordinated Plan</b> Maximum total point value = 40		
Comments		Criteria
		Project demonstrates understanding of the issues and challenges of the project area.
		Project addresses identified service gaps or other issues.
		Project is a high priority in the locally developed coordinated plan.
		Applicant was an active participant in the plan.
<b>2. Demonstrated Financial Capacity</b> Maximum total point value = 20		
Comments		Criteria
		Provided documentation of local share.

	Provided reasonable, detailed cost estimates.
	Documents evidence that the project can be sustained in the event that sufficient New Freedom funding is not available to continue the project.
<b>3. Program Goals and Measures</b> Maximum total point value = 20	
<b>Comments</b>	<b>Criteria</b>
	Description clearly identifies new service or alternatives beyond ADA requirements.
	Provided estimate of one-way trips as a result of the New Freedom project.
	Provided estimate of jobs and employers to be accessed as a result of the project.
	Describes increases or enhancements related to geographic coverage, service quality, and/or service times impacting transportation services for individuals with disabilities.
<b>3. Program Goals and &amp; Measures, Continued</b>	
<b>Comment</b>	<b>Criteria</b>
	Described additions or changes to environmental infrastructure (e.g., transportation facilities, side walks, etc.), technology, and vehicles that impact availability of transportation services.
	Project is innovative and transferable to other locations.

	Indicates competitive expense of Federal grant funds per eligible trip.
	If full funding is not available, can project scope be adapted to other funding levels?
	Documentation of wide-ranging outreach efforts for coordination
<b>4. Demonstrated Managerial/Technical/Operational Capabilities</b> Maximum total point value = 20	
<b>Comments</b>	<b>Criteria</b>
	Applicant has shown strong managerial/technical/operational capabilities as evidenced by other projects, current service, management team, etc.
	Proposed project includes milestones and timelines.
	Data will be collected to support the reporting requirements and appropriate information will be collected to measure the accomplishments of the project.

<b>SCORE SUMMARY</b>		
Section	Points Possible	Score
1. Application Derived from Locally Developed Coordination Plan	40	
2. Demonstrated Financial Capacity	20	
3. Program Goals and Measures	20	
4. Demonstrated Managerial/Technical/	20	

Operational Capabilities		
TOTAL	100	